

REMARKS (37 CFR 1.111)

Original claims 42 – 52, and 91 - 145 are pending. Some of the claims have been amended in response to the Office Action to clarify the nature of the claimed inventions. The rejections are hereby addressed through both traverse and argument as set forth in detail below.

Claims 42 – 52

Independent claim 42 was rejected in light of Manghirmalani (U.S. Patent No. 5,819,028) under § 102. The claim was amended and should be allowable for the following reasons.

First, as Applicant understands the rejection, the Examiner equates the MID objects (Fig. 12) with the “data parameters” set out in claim 42. Applicants do not disagree with this broad interpretation of such term. Nonetheless under such designation, the rest of the claim is clearly not anticipated by Manghirmalani.

In particular, as noted above, Manghirmalani does not recognize, let alone allow, for the user to take the data parameters and have them “...**arranged arbitrarily**” to generate a data picture. The MIB objects 1204 (FIG. 12) are in fact not displayed; this can be confirmed from looking at FIG. 13. What is displayed is a health meter 1301 which is the result of a formula 1202 from FIG. 12; the latter incorporates the underlying data from such objects, and they are only displayed within the confines of the various icons provided in the screen shown in FIG. 13. See col. 12, ll. 1 – 65.

To better define the invention of claim 42 over such reference, the language has been amended to read:

“...wherein the data picture can be based at least in part on a graphical arrangement configured by the user within the data canvas, including **one or more physical positions selected by the user within the data canvas** for placing one or more corresponding predefined statements from said selected set, **and/or a relative spatial relationship between said one or more physical positions selected by the user** concerning said action and/or said transaction..” (emphasis added)

It should be apparent that Manghirmalani does not include or suggest this type of

feature under any reasonable interpretation of such reference, and therefore the claim should be allowable. The user simply does not arrange/select any of the physical positions for the various objects/meters which the Examiner has referred to; nor does the user arrange/select the relative spatial relationship between any selected objects. Nonetheless, the Examiner should not conclude that there is anything inherently incompatible between the embodiments covered by claim 42 and the Manghirmalani network health monitoring system. The latter in fact, could use and benefit from using the type of invention described in claim 42.

-- Dependent claims 43 – 52

Dependent claims 43 – 52 should be allowable for at least the same reasons as claim 42, and for the following additional reasons.

First, for dependent claim 43, this claim sets out specifically that the selected set of data parameters are selected and physically moved by the user to a gradient on the data canvas by physically manipulating an electronic pointing device. The section cited by the Examiner in Manghirmalani says nothing about the user “moving” the health meter objects, let alone that they can control where such features appear in the health screen. There is also no “gradient” shown in the health screen (FIG. 13) pointed out by the Examiner.

For dependent claim 44: the Examiner cites FIG. 13; however, as noted above, this is only the health reporting screen; it is clearly separate from the configuration screens of FIGs. 11 and 12. Manghirmalani certainly does not identify them anywhere as appearing as a “...single data capture screen” as set out in claim 44.

For dependent claim 45: the Examiner is contending that the “meter window” (FIG. 13) is formed without ..numeric data input by the user. But the section of Manghirmalani relied on by the Examiner specifically mentions that the underlying data is all numeric – particularly the formulas 1202 identified in FIG. 12. Thus it is unclear how the Examiner is interpreting this term, since the users in Manghirmalani quite intentionally provide numeric data and cannot meet the strictures of this claim.

For dependent claim 46: this should be allowable for the same reason as claim 45. The Examiner rejected this claim under 103 based on Manghirmalani taken with Ferguson et

al. (U.S. Patent No. 6,064,984), particularly col. 8, ll. 46 – 64 of the latter:

Referring to FIG. 6, and using direct manipulation or other conventional keyboard input technique, the user “grabs” the icon off the “fence” line and positions it on the canvas above a date on which the customer expects the event to occur. In the example above, this would be the date that a child might be expected to enter college. In the preferred embodiment, this new position of the PEI represents the “event date,” which is the date on which the event in question occurs (and for which the financial planning is being carried out). In simple terms, the event date is the date on which funds will need to be expended to facilitate the life event, whatever it may be.

According to the invention, placement of the icon at the event date then causes the display of one or more symbolic representations and/or graphic devices that provide useful information to the broker/customer for planning and realization of the life event. This is illustrated in FIG. 6.

The Examiner says that it would have been obvious to combine Ferguson’s teaching with Manghirmalani “...to provide the user with the ability to see the results of different hypothetical scenarios.” The problem with this rejection is that it clearly relies on a hindsight reconstruction of the applicant’s invention from the prior art, and is thus improper. In re Gorman, 933 F.2d 982, 986, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). There is simply nothing in either Ferguson or Manghirmalani that hints, let alone expressly suggests that one skilled in the art should apply such “hypothetical” features to a network health monitoring system. So there is no evidence of the “motivation” which the Examiner relies upon, and the rejection should be withdrawn.

For dependent claim 47: see claim 46. While Ferguson discusses allocating money in different categories, there is nothing in the reference which relates such ranking to a location on a data canvas as set out in claim 47. So this rejection is traversed as well.

For dependent claim 48: The Examiner is apparently misreading this claim. Only the meter icon dials (1304, 1305) in FIG. 13 of Manghirmalani which the Examiner identifies as the “data parameters” may change. The rest of the screen on which the icon dials sit does not apparently change, as would have to happen to meet the limitation of this claim.

For dependent claim 50: Manghirmalani merely shows that the same data can be shown in two different ways (chart, dial); it is NOT providing a visual comparison between

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two different “data pictures” which may have different data of course.

Claims 91 – 98

Independent claim 91 was rejected in light of Manghirmalani under § 102. This claim has been amended and should be allowable for substantially the same reasons as expressed above for claim 42.

-- Dependent claims 92 - 98

Dependent claims 92 - 98 should be allowable for at least the same reasons as claim 91, and for the following additional reasons.

For dependent claim 93, see claim 44 above.

For dependent claim 94, see claim 45 above.

For dependent claim 95, see claim 46 above.

For dependent claim 96, see claim 47 above.

For dependent claim 97, see claim 47 above.

For dependent claim 98, see claim 51 above.

Claims 99 – 105

Independent claim 99 was rejected in light of Manghirmalani under § 102. It has been amended slightly to correct the language but not in substance. The Examiner used the same logic as for claim 91, but there are some subtle differences in the claims as submitted, and so this rejection is traversed for the following reasons:

First, the reference does not teach that there are two portions of a visible interface, in which part is used for “...displaying a set of assertions to the user” and a second, separate portion of the same visible interface which “...acts as a data canvas for displaying such personalized individual assertions.” As the Examiner can see, the various configuration and network health monitor screens (FIGs. 12, 13) are not within the same interface. Moreover there is nothing in Manghirmalani showing that the “...personalized individual assertions **can be arranged by the user** to create the data picture” (emphasis added). In other words, nothing in Manghirmalani is moved or arranged as set out in the claim. Consequently

Applicant submits that the current §102 rejection is not well founded, and should be withdrawn.

-- Dependent claims 100-105

Dependent claims 100 - 105 should be allowable for at least the same reasons as claim 99, and for the following additional reasons.

For dependent claim 100, see claim 92 above.

For dependent claim 101, see claim 93 above.

For dependent claim 102, see claim 95 above.

For dependent claim 103, see claim 96 above.

For dependent claim 104, see claim 97 above.

For dependent claim 105, see claim 98 above.

Claims 106 – 110

Independent claim 106 was rejected in light of Manghirmalani under § 102. It has been amended slightly to correct the language but not in substance. The rejection is traversed for the following reasons:

First, the reference does not teach that there are two portions of a visible interface, in which part is used for "...displaying a set of assertions to the user" and a second, separate portion of the same visible interface which "...acts to displaying such selected assertions along a **visible gradient**." Nor can the user "...arrange said selected assertions **in a ranking order relative to each other along said visible gradient** to create a data picture" (emphasis added). The Examiner has cited to col. 12, ll. 16 – 20, but upon closer review, it should be apparent that no "visible gradient" is disclosed. Similarly col. 7, ll. 60 – 67 talks of "weights" for the specific type of network data, but does not include any mechanism for displaying a ranking order in a "visible gradient." For these reasons, the rejection of claim 106 should be withdrawn. Again the Examiner should appreciate that embodiments of claim 106 could be beneficially implemented in the type of environment and system shown in Manghirmalani.

-- Dependent claims 107 - 110

Dependent claims 107 - 110 should be allowable for at least the same reasons as claim 106, and for the following additional reasons.

For dependent claim 107, see claim 100 above.

For dependent claim 108, see claim 101 above.

For dependent claim 109, see claim 102 above.

For dependent claim 110, see claim 50 above.

Claims 111 – 120

Independent claim 111 was rejected in light of Manghirmalani under § 102. The claim was amended to correct an informality, and the rejection is traversed for the following reasons:

First, the reference does not teach that there are two portions of a visible interface, in which part is used for “...providing a palette of individual assertions..” and a second, separate portion of the same visible interface which “...acts to visibly display such selected assertions....” Nor can the user “select and **move** assertions...” and then “...arrange said selected assertions **in a ranking order relative to each other...**” (emphasis added). The Examiner has cited to col. 12, ll. 16 – 20, but upon closer review, it should be apparent that no movement of any kind is disclosed. Similarly col. 7, ll. 60 – 67 talks of “weights” for the specific type of network data, but does not include any mechanism for arranging/displaying a relative ranking order. For these reasons, the rejection of claim 106 should be withdrawn.

-- Dependent claims 112 - 120

Dependent claims 112 - 120 should be allowable for at least the same reasons as claim 111, and for the following additional reasons.

For dependent claim 112, see claim 109 above.

For dependent claim 113, see claim 106 above.

For dependent claim 114, see claim 48 above.

For dependent claim 116: the reference clearly does not say anything about storing and modifying the metered icons and their values in the health monitor display at a later

time.

For dependent claim 117, see claim 101 above.

For dependent claim 118, see claim 50 above.

For dependent claim 119, see claim 98 above.

For dependent claim 120, see claim 101 above.

Claims 121 – 125

Independent claim 121 was rejected in light of Manghirmalani under § 102. It has been amended slightly to correct the language but not in substance. The rejection is traversed for the following reasons:

The reference does not teach “...**moving** a selected data parameter...” to a canvas, and then “... **arranging said selected data parameter** on said canvas so as to indicate a **corresponding weighting factor** to be associated with said selected data parameter” (emphasis added). The Examiner will note that the individual MIB objects cannot be “moved” in Manghirmalani; nor can they be arranged to indicate weighting factors. Thus, the present rejection under 102 should be withdrawn. Finally, for the same reasons as noted above, the Examiner will understand that embodiments of claim 121 could be integrated and adopted within the type of environment and system shown in Manghirmalani.

-- Dependent claims 122 - 125

Dependent claims 122 - 125 should be allowable for at least the same reasons as claim 121, and for the following additional reasons.

For dependent claim 122: this claim notes that the data record is used as a query to locate additional information... in contrast, FIG. 14 of the reference cited by the Examiner is not locating “additional information;” it is merely presenting the same information in a different format. Accordingly, Applicant submits that such disclosure cannot meet this limitation of this claim.

For dependent claim 123, see claim 50 above.

For dependent claim 124, see claim 97 above.

For dependent claim 125: this claim is not of the same scope as claim 47, 124; this

claim covers more specific embodiments wherein two different axes (horizontal and vertical) are used for a weighting factor. The Ferguson reference is silent on such point, and therefore cannot cure any defect in Manghirmalani in this respect.

Claims 126 – 130

Independent claim 126 was rejected in light of Manghirmalani under § 102. It has been amended slightly to correct the language but not in substance. The Examiner compared it to claim 106, but this analogy is not correct, and the rejection is traversed for the following reasons:

The reference does not teach at least the limitation of “...providing **feedback information dynamically to the user** while the user is providing said input data...” As the Examiner can see, the user in Manghirmalani selects various health parameters in the screen shown in FIGs. 11 and 12. Nowhere is there any description in Manghirmalani for these figures that teaches or suggests that “feedback information” is presented dynamically as the user is providing such input data. Accordingly the Applicant submits that this rejection should be withdrawn.

-- Dependent claims 127 - 130

Dependent claims 127 - 130 should be allowable for at least the same reasons as claim 126, and for the following additional reasons.

For dependent claim 128: this claim sets out that a Java applet is used for the data input session. The Richards reference (U.S. Patent No. 6,539,361) cited by the Examiner does not teach or suggest that one skilled in the art should implement a Java based implementation of the type of system shown Manghirmalani, nor even that such is feasible. Moreover, given that there are access restrictions placed on Java applets to local resources, it can be easily seen that one skilled in the art would not consider the Richards approach acceptable for use in monitoring the behavior of a “local” area network such as done in Manghirmalani. Thus, the prior art appears to teach away from such combination, which is the hallmark of non-obviousness.

For dependent claim 130: see claim 109.

Claims 131 – 136

Independent claim 131 was rejected in light of Manghirmalani under § 102. It has been amended slightly to correct the language but not in substance. The Examiner compared it to claim 106, but this analogy is not correct, and the rejection is traversed for the following reasons:

The reference does not teach at least the limitations of “...storing one or more data records including...**a weighting factor** to be given to each data parameter...” and “...processing a query by the user...of a frequency of usage of a data parameter...” and “...providing feedback to the user.... As the Examiner can see, the user in Manghirmalani selects various health parameters in the screen shown in FIGs. 11 and 12. Nowhere is there any description in Manghirmalani for a query of any kind in this screen, or in the network health display screens (FIGs. 13 and 14), let alone something along the lines of what is set out in claim 131. Accordingly the Applicant submits that this rejection should be withdrawn.

-- Dependent claims 132 - 135

Dependent claims 132 - 135 should be allowable for at least the same reasons as claim 131, and for the following additional reasons.

For dependent claim 132: this claim sets out that the feedback is a chart and/or a graph. The Examiner points to FIG. 14 of Manghirmalani, but such chart/graph is not provided as “feedback” “in response to” a query as set out in claim 131.

For dependent claim 133: this claim sets out that the feedback is a proposed model set of data records and weighting factors. The Examiner points to col. 7 of Manghirmalani, but “feedback” is not the type set out in claim 133, and is not provided “in response to” a query as set out in claim 131.

For dependent claim 134: this claim sets out that the feedback is a prediction; the Examiner points to FIG. 12 of Manghirmalani, but the “formula” shown there is not a prediction of any kind; it is simply a template with which the user can construct his/her own network health metric.

Claims 136 – 140

Independent claim 136 was rejected in light of Manghirmalani under § 102. It has been amended slightly to correct the language but not in substance. The Examiner compared it to claim 106, but this analogy is not correct, and the rejection is traversed for the following reasons:

The reference does not teach at least the limitations of creating both “first” and “second” data pictures at different times, in which the first data picture is created before the user performs an action/or transaction, and the second data picture is created after the user performs an action/or transaction. The “data record” thus includes both the first and second data pictures. The advantage of this type of approach is that the user can do before and after comparisons to identify changes in perceptions. There is nothing of this type of process mentioned anywhere in Manghirmalani; again, it does not appear that the state of the network health monitors in FIGs. 13, 14 - reflecting the network health at any time - is preserved or stored in any fashion, let alone as a data “picture”; thus, it cannot possibly meet the limitations of this claim. As with the other claims above, it is nonetheless true that embodiments of Manghirmalani could benefit from the method set forth in claim 136. Accordingly the Applicant submits that this rejection should be withdrawn.

-- Dependent claims 137 - 140

Dependent claims 137 - 140 should be allowable for at least the same reasons as claim 136, and for the following additional reasons.

For dependent claim 137: this claim sets out that the first data picture is not alterable. The Examiner has cited the Wren reference (U.S. patent no. 6,055,514) for the teaching that a data picture can be stored permanently, and on that basis argues that the claim is obvious. Nonetheless, the Wren reference does not disclose a data “picture” of the type shown and disclosed in the present claims, and thus it cannot cure the underlying disclosure defect in Manghirmalani. Thus, this rejection is also traversed.

For dependent claims 138, 139: these claims set out that the action/transaction concerns trading securities. The Examiner cites U.S. Patent No. 6,012,042 to Black as teaching that data pictures relating to purchases of securities are known in the art, and thus

can be combined with Manghirmalani. Once again, the defect in this analysis is that Black is not dealing with a data “picture” as set out in the present claims. Thus, there is nothing in such reference which can cure the omission in Manghirmalani for purposes of § 103, and the rejection is traversed.

Claims 141 – 140

Independent claim 141 was rejected in light of Manghirmalani under § 102. The Examiner compared it to claim 106, but this analogy is not correct, and the rejection is traversed for the following reasons:

The reference does not teach at least the limitations of a data picture record in which there is a “weighting factor” that is “derived” from “... a relative placement” of a data parameter within a “graphical arrangement.” There is nothing in Manghirmalani that shows that it cares about or considers the relative placement of anything. Consequently, it cannot possibly meet the limitations of this claim. As with the other claims above, it is nonetheless true that embodiments of Manghirmalani could benefit from the method set forth in claim 141. For these reasons the Applicant submits that this rejection should be withdrawn.

-- Dependent claims 142 - 145

Dependent claims 142 - 145 should be allowable for at least the same reasons as claim 136, and for the following additional reasons.

For dependent claim 142: this claim sets out that the data pictures are grouped; the section of Manghirmalani cited by the Examiner does not relate to data “pictures” so Applicant traverses this rejection.

For dependent claim 142: see claim 136.

For dependent claim 143: see claim 124

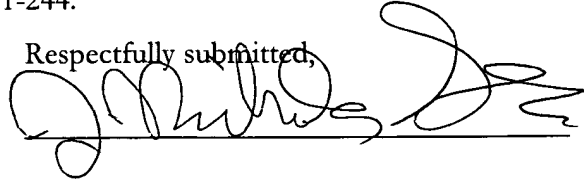
For dependent claim 145: see claim 125.

CONCLUSION

The rejections made by the Examiner have been carefully reviewed and addressed in detail above. The pending claims are believed to be allowable over the art of record, and thus early allowance of the same is earnestly solicited.

A petition and fee for a three month extension of time is also submitted herewith. Please charge any fees due to account no. 501-244.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Nicholas Gross', written over a horizontal line.

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I hereby certify that the foregoing is being deposited with the U.S. Postal Service, postage prepaid, to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313, this 23rd day of March 2005.